United Nations A/HRC/39/NGO/21

General Assembly

Distr.: General
3 September 2018

English only

Human Rights Council
Thirty-ninth session
10-28 September 2018
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Christian Solidarity Worldwide, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 August 2018]

* Issued as received, in the language(s) of submission only.

GE.18-14493(E)

1814493

Please recycle

Enforced disappearance and arbitrary detention in the People's Republic of China and the Republic of Cuba

1. CSW (Christian Solidarity Worldwide) is a human rights organisation specialising in freedom of religion or belief (FoRB) for all.

2. This submission seeks to draw the Council's attention to the prevalence of enforced disappearance and arbitrary detention in the People's Republic of China and the Republic of Cuba.

3. Under President Xi increasing human rights abuses in China are accompanied by and manifested through a shrinking space for civil society, a heightened sensitivity to perceived challenges to Party rule, and the introduction of legislation that curtails civil and political rights in the name of national security.

4. Similarly, in Cuba, the realisation of human rights is limited through Article 62 of the constitution, which gives explicit legal privilege to the objectives of the Cuban socialist State, over and above the protection of fundamental human rights for all Cuban citizens.

5. Within such contexts, where human rights are conditional upon their alignment with the ideological aims of the government, arbitrary detention and enforced disappearance are tactics frequently used to harass and control civil society.

China: Residential surveillance at a designated location

6. Under Article 73 of China's Criminal Procedure Law (CPL), an individual can be held in a police-designated location for up to six months under a measure known as 'residential surveillance at a designated location', or RSDL. The measure is essentially a form of enforced disappearance. Individuals typically have no access to legal counsel and no contact with family members: police do not even have to tell their family where they are. RSDL exists outside the detention system and beyond any "normal" oversight or supervision.

7. Under RSDL, torture is extremely unlikely to be investigated and more likely to occur in the first place. In fact, the testimonies of those detained under this measure indicate that torture and ill-treatment are rife. Lawyers detained in the '709 crackdown' in 2015 report being violently stripped, shackled and threatened; kicked, punched, and forced to sit in a chair which would not let his feet touch the ground for up to 20 hours a day, causing extreme pain; other were force-fed medicine and deprived of sleep.

8. Human rights lawyer Gao Zhisheng 'disappeared' in August 2017; his whereabouts are still unknown. Previously Gao was imprisoned for three years and was released on 7 August 2014 with serious health problems, and reported being tortured. Other victims of enforced disappearance in China include Falun Gong practitioners and Christians associated with unregistered churches.

China: Detention in political re-education camps

9. Furthermore, in 2017 and 2018 there were reports of the widespread detention of Uyghurs, Kazakhs and members of other ethnic groups in political re-education camps1 in Xinjiang Uyghur Autonomous Region. Up to one million individuals are believed to have been detained for varying periods of time without charge, sometimes in connection with their peaceful religious activities, including praying or wearing 'Islamic' clothing.2 In some cases whole families, including children, have reportedly been held in re-education camps. Witnesses report that in some areas, almost every man under 70 years of age has been sent to a camp for such reasons as having a relative living overseas or reading the Qu'ran.

10. The families of individuals sent to re-education camps are typically not told where they are being held, or when they will be released. Individuals do not have access to legal counsel and there is no mechanism for appeal.

11. There is a strong religious element to the detentions. Not only have some individuals been detained allegedly in connection with their peaceful religious activities, but witnesses also report that inside the camps detainees

1 Variously known as 'counter-extremism training centres', 'education and transformation training centres' etc.
2 Congressional-Executive Commission on China, 'Chairs Raise Alarm About Deteriorating Human Rights Situation in Xinjiang', 8 January 2018 www.cecc.gov/media-center/press-releases/chairs-raise-alarm-about-deteriorating-human-rights-situation-in

are required to renounce Islam and promise not to follow religion. Detainees have also been forced to eat pork or drink alcohol, against their religious beliefs.

12. As with RSDL, torture and ill-treatment are common and include beatings, sleep deprivation and solitary confinement.

13. The disappearance into these camps of hundreds of thousands of people has further heightened the already critical level of fear which pervades the region. Disappearances can happen at any time, to any person, without warning. In such a climate of fear, many Uyghur Muslims have stopped public and communal religious observance and have broken off contact with relatives overseas.

Recommendations to the government of China

14. Ratify the International Covenant on Civil and Political Rights (ICCPR), the International Convention for the Protection of All Persons from Enforced Disappearance (CED) and the Optional Protocol to the Convention against Torture (CAT), and revise national laws and policies to comply with these international conventions;

15. Immediately release all prisoners of conscience detained in connection with their religion or belief, and investigate cases of wrongful imprisonment;

16. Immediately release human rights defenders detained or imprisoned in connection with their peaceful defence of the rights of others;

17. Abolish and end the use of residential surveillance at a designated location, re-education camps, and all forms of extra-legal detention, and de facto enforced disappearance and arbitrary detention;

18. Ensure that no citizen is detained incommunicado and that family members of detainees are informed of their whereabouts and the charges against them in good time, in accordance with international standards.

Cuba: Detention of members of the Ladies in White movement

19. Every week for the past decade, government agents in Cuba have systematically detained dozens of women affiliated with the Ladies in White movement – a nonviolent independent civil society group – preventing them from attending Mass. In most cases, women were violently detained by security agents upon leaving their homes, the Ladies in White headquarters in Havana, or as they arrived at church services across the island.

20. While government officials appear to be primarily focused on targeting Sunday morning activities, many women reported that they were also banned from attending other weeknight events including Bible studies and prayer meetings. This suggests that government policy is aimed not only at preventing individuals from being present at Sunday Mass, but is also an attempt to isolate them from their community of faith.

21. The right to freedom of religion or belief (FoRB), is guaranteed in the Cuban constitution. Specifically, FoRB is enshrined under Article 8, Article 42 and Article 55 of the constitution.3 However, as already stated, the realisation of fundamental rights, including FoRB, are limited through Article 62 of the constitution. As such, many religious leaders and activists face frequent harassment and arbitrary detention as the government attempts to tighten its control over the activities and membership of religious groups on the island.

22. The Ladies in White have documented a concerning increase in the number of women subjected to hazardous conditions during their arbitrary detention. Indeed, the movement has reported various instances of women being beaten, scratched, punched, dragged by the feet and threatened by the police.

23. In 2018, the Ladies in White suspended their campaign between 27 May – 1 July due to pressure from the government on their movement. At the time, three members of the Ladies in White, Martha Sánchez González,

3 Collectively, these articles recognise, respect and guarantee FoRB for all and explicitly acknowledge respect for the independence of religious institutions and affairs from the State; equality before the law for all creeds and religions; condemnation of discrimination based on religious creed – attaching a legal penalty to any such act; and citizens' rights to change, refute or profess their belief or non-belief, with respect to the law.

Nieves Caridad Matamoros González and Aymara Nieto Muñoz, were being held in El Guatao, a prison for female offenders, on trumped up charges including disobedience and contempt. Matamoros González was arrested on 9 April and held for 24 hours, during which time she was sexually assaulted while under arrest, before being taken to the La Palma municipal tribunal where she was sentenced to 18 months imprisonment for non-payment of 'political' fines without the right of attorney. Sánchez González was detained while leaving her house on Sunday 11 March to attend a protest during a local election. On 6 April 2018, she was put charged with contempt and disobedience. Her case, and that of Aymara Nieto Muñoz are still pending trial.

Cuba: Arbitrary arrests of other religious leaders

24. On 25 February 2017, Pastor Ramón Rigal and his wife, of the Church of God in Cuba, were arrested following their attempt to home school their children for religious reasons. Their sentences were later reduced to house arrests. Other recent cases of arbitrary arrest include those of Apostolic Movement leaders Pastor Juan Carlos Velasquez Nuñez in September 2016 and Pastor Rafael Ríos Martínez Martínez in December 2016.

25. The police also regularly make use of 'Actas de Advertencia', a form of pre-arrest warrant which can be used to justify future arrests and criminal charges, and to restrict travel. On 14 September 2017, Pastor Ernesto Lora was forced to sign an 'Actas de Advertencia' after holding an interdenominational worship service in the city square in the city square in El Cristo, Santiago Province, despite having obtained permission from the Cuban authorities beforehand.

Recommendations to the government of Cuba

26. **End all practices of arbitrary detention of Cuban citizens freely exercising the right to FoRB, as enshrined under Articles 8, 42 and 55 of the Cuban Constitution.**

27. **Immediately release all prisoners of conscience detained in connection with their religion or belief, and investigate cases of wrongful imprisonment.**

28. **Immediately release human rights defenders detained or imprisoned in connection with their peaceful defence of the rights of others;**

29. **Ratify both the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) which protects FoRB for all, and to commit to the provisions within the ICCPR under Articles 9 and 14, which enshrine the right to a fair trial, liberty and security of person and prohibit arbitrary arrest or detention.**